

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

Claims 1-18 and 23-32 are pending in this application. Claims 11-18 are allowed. By this Amendment, independent Claim 1 is amended. Support for new the amendment can be found, for example, in Figs. 9-12. No new matter is added.

Applicant appreciates the courtesies shown to Applicant's representative by Examiner Truong during the November 24, 2008 personal interview. The reasons warranting favorable action discussed during the interview are incorporated into the following remarks and constitute Applicants' separate record of the interview.

Applicants appreciate Examiner Truong's indication that Claims 11-18 are allowed, and that Claims 2, 3, 6, 9 and 10 recite allowable subject matter and would be allowable if rewritten in independent form including all of the features of the base claim and any intervening claims. Applicants submit that the remaining claims are allowable for the reasons discussed below.

Independent Claims 1 and 26 are the only independent claims at issue.

Independent Claim 1 is directed to an apparatus for sealing a package having an open end. The apparatus comprises, *inter alia*, at least one pair of sealing halves, one of the sealing halves including sealing means for sealingly closing the open end of the package when the sealing halves are in the closed sealing position, and forming means for forming the package. Both of the sealing halves are reciprocally movable so that the two sealing halves move towards one another from an open position to a closed sealing position and move away from one another from the closed sealing position toward the open position. The forming means comprise a

pair of forming flaps. Each forming flap is associated with a respective one of the sealing halves and each forming flap possesses a first end pivotally attached to a support such that each forming flap pivots relative to the sealing means.

Independent Claim 26 is directed to an apparatus for sealing a package having an open end. The apparatus comprises, *inter alia*, at least one pair of sealing halves reciprocally movable between an open position and a closed sealing position, and forming means for forming the package adjacent the open end of the package. The forming means comprises a pair of forming flaps positioned below the sealing means, each forming flap being associated with a sealing half, and each forming flap possessing a first end pivotally attached to a support and a second end adapted to follow the reciprocal movement of the associated sealing half. The forming flaps and the sealing halves are positioned relative to one another such that during the movement of the sealing halves towards the closed sealing position, each of the sealing halves moves from being out of contact with the forming flaps to being in contact with a portion of one of the forming flaps to move the forming flaps into contact with two opposing portions of the package to press the two opposing portions of the package towards each other.

The Official Action first rejects independent Claims 1 and 26 under 35 U.S.C. §102(b) over EP 0 466 271 to Wakabayashi et al. ("Wakabayashi").

Wakabayashi discloses an apparatus for bonding a top portion of a container 11. The apparatus includes a bonding head 36 rigidly attached to a block 35 having a vertical pressing face 61 and a slanting face 62 (see Fig. 1). The Official Action takes the position that the vertical pressing face 61 corresponds to the claimed sealing means, that the slanting face 62 corresponds to the claimed forming flap and

that the bonding head 36 corresponds to the claimed sealing half. Further, the Official Action states that the an end of the slanting face 62 ("forming flap") is pivotally attached to a support (i.e., pivot 41) via pivot arm 42 as shown in Fig. 1 of Wakabayashi. The Official Action takes the position that because the slanting face 62 and the bonding head 36 are integrally formed, the two move together such that the slanting face 62 ("forming flap") is directly pushed by the bonding head 36 ("sealing half") during movement of the bonding head 36.

However, as discussed during the interview, Wakabayashi does not disclose that each forming flap pivots relative to the sealing means, as now recited in independent Claim 1. Fig. 1 of Wakabayashi clearly shows that the vertical pressing face 61 and the slanting face 62 ("forming flap") are rigidly fixed to the bonding head 36 ("sealing half") and pivot together with the bonding head 36 about the pivot 41. The vertical pressing face 61 does not pivot relative to the slanting face 62. The embodiment shown in Fig. 5 of Wakabayashi also does not disclose these features. Thus, independent Claim 1 is patentable over Wakabayashi for at least these reasons.

In addition, as discussed during the interview, Wakabayashi does not disclose that during movement of the sealing halves towards the closed sealing position, each of the sealing halves moves from a position out of contact with the forming flaps to a position in contact with a portion of one of the forming flaps, as recited in independent Claim 26. As shown in Fig. 1 of Wakabayashi, the slanting face 62 ("forming flap") is a part of the block 35 that is rigidly fixed to the bonding head 36 ("sealing half"). The slanting face 62 does not move relative to the bonding head 36. Thus, during movement of the bonding heads 36 towards the closed sealing position,

the bonding heads 36 do not move from a position out of contact with the slanting face 62 to a position in contact with a portion of the slanting face 62, as recited in independent Claim 26. The embodiment shown in Fig. 5 of Wakabayashi also does not disclose these features. Thus, independent Claim 26 is patentable over Wakabayashi for at least these reasons.

Accordingly, withdrawal of the rejection of independent Claims 1 and 26 over Wakabayashi is respectfully requested.

The Official Action also rejects independent Claims 1 and 26 under 35 U.S.C. §102(b) over U.S. Patent No. 3,220,161 to Lohse et al. ("Lohse"). The Official Action's interpretation of Lohse is similar to its interpretation of Wakabayashi.

Lohse discloses an apparatus for closing bags of heat sealable packaging material. As shown in Fig. 6 of Lohse, the apparatus includes a pair of pivotable levers 72, 73 that each hold a heat sealing jaw 70 and a cooled clamping jaw 102 (see col. 3, lines 40-70). The Official Action takes the position that the pair of pivotable levers 72, 73 corresponds to the claimed pair of sealing halves, that the heat sealing jaw 70 corresponds to the claimed sealing means, and that the cooled clamping jaw 102 corresponds to the claimed forming flap. The Official Action states that a first end of cooled clamping jaw 102 ("forming flap") is pivotally attached to a support (i.e., block 80) via the pivotable levers 72, 73 and associated links 81, 82 (see Fig. 6 and col. 3, line 65 to col. 4, line 12). Thus, the Official Action takes the position that each cooled clamping jaw 102 ("forming flap") is directly pushed by the respective pivotable lever 72, 73 ("sealing half") during movement of the respective pivotable lever 72, 73 to pivotally move each of the cooled clamping jaws 102 with

respect to block 80 to press two opposing portions of the package 11 towards each other.

However, as discussed during the interview, Lohse does not disclose that each forming flap pivots relative to the sealing means, as now recited in independent Claim 1. As shown in Fig. 6 of Lohse, the heat sealing jaw 70 ("sealing means") and the cooled clamping jaw 102 ("forming flap") are rigidly fixed to the respective pivotable lever 72, 73 ("sealing half"). The cooled clamping jaw 102 does not pivot relative to the heat sealing jaw 70. Thus, independent Claim 1 is patentable over Lohse for at least these reasons.

In addition, as discussed during the interview, Lohse does not disclose that during movement of the sealing halves towards the closed sealing position, each of the sealing halves moves from a position out of contact with the forming flaps to a position in contact with a portion of one of the forming flaps, as recited in independent Claim 26. As discussed above, cooled clamping jaw 102 is slidably fixed to the respective pivotable lever 72, 73. Therefore, during the movement of the pivotable lever 72, 73 towards a closed sealing position, pivotable lever 72, 73 do not move from being out of contact with the cooled clamping jaw 102 to being in contact with a portion of the cooled clamping jaw 102, as recited in independent Claim 26. Thus, independent Claim 26 is patentable over Lohse for at least these reasons.

Claims 4, 5, 7, 8, 23-25 and 27-32 are patentable over Wakabayashi and Lohse at least by virtue of their dependence from patentable independent Claims 1 and 26, respectively. Thus, a detailed discussion of the additional distinguishing features recited in these dependent claims is not set forth at this time.

Should any questions arise in connection with this application, or should the Examiner believe that a telephone conference with the undersigned would be helpful in resolving any remaining issues pertaining to this application, the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

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Date: November 25, 2008

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